THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.20938 OF 1995

ORDER:

This writ petition is filed by Sri Kodandaramaswamy Vari Temple, Buchireddipalem, Nellore district, represented by its hereditary Managing Trustee seeking a writ of *certiorari* to call for the records relating to the order dated 24.12.1976 passed by the Special Deputy Tahsildar (Inams), Kavali, under Section 3 (3) of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 as confirmed by the Revenue Divisional Officer, Kavali and the Commissioner of Survey, Settlements & Land Records, A.P., by orders dated 2.12.1978 and 5.6.1995 respectively, and to quash the same being arbitrary and illegal.

The facts, in brief, are as under:

After the commencement of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short "the Act"), the Special Deputy Tahsildar (Inams), Kavali, initiated proceedings under Section 3 of the Act,in respect of Kavetipalem village in Kovur Taluk of Nellore District comprising Ac.480.26 cents of land. The said inam was said to have been granted by one Nagulapati Raya Venkateswara Poundarika Yazulavaru in 1785 A.D. for the maintenance of Acharya Purushas and other Kinkaryams in the temple of Kodandarama Swamy in Buchireddypalem, Nellore District. Accordingly, notices in Form-1 under Section 3 (2) of the Act were issued calling upon all the persons claiming interest in the lands in question to file statement of particulars specifying

whether the land is an inam land, whether such inam land is in Ryotwari, Jamindari or Inam village and whether such inam land is held by any institution. Pursuant thereto, the persons in occupation filed their statements stating that the land is covered by a personal grant in favour of their predecessors who were rendering service to the

temple and the lands are under their possession and enjoyment. On the other hand, the trustees of the petitioner-temple claimed that the land in question belongs to the Deity, since the said lands form part of an inam granted for rendering service to the Deity.

Both parties filed their statements through their respective counsel and also produced oral and documentary evidence in support of their respective claims.

On appreciation of the material on record and after hearing both the parties, the Special Deputy Tahsildar (Inams), the 3rd respondent herein, held that the land in question is an Inam land situated in an inam village and it is not held by any institution. Aggrieved by the same, the petitioner-temple filed an appeal before the Revenue Divisional Officer, Kavali contending that the land in question is held by the institution. The Inamdars also filed an appeal questioning the finding recorded by the Special Deputy Tahsildar that it is an inam village. According to them, the land in Kavetipalem is in ryotwari village, Penchedu. The said appeals were disposed of by the Revenue Divisional Officer, Kavali, by order dated 2.12.1978, setting aside the order of the 3rd respondent to the extent that the inam land is situated in Inam village and holding that it is an inam land situated in ryotwari village and that it is not held by any institution. Challenging the same, though the petitioner preferred a Revision before the Commissioner of Survey, Settlements & Land Records, Andhra Pradesh, Hyderabad, under Section 14-A of the Act, the same was dismissed by order dated 5.6.1995, confirming the findings that the land in question is an inam land situated in a ryotwari village and that it is not held by any institution. Hence, this writ petition by the temple seeking a Certiorari to quash the above said orders.

I have heard the learned counsel for both the parties and perused the material on record.

Sri K. V. Satyanarayana, the learned counsel for the petitioner contended that the findings recorded by the respondents are not based

on proper appreciation of the evidence on record and unsustainable. The learned counsel submitted that since the land in question forms part of the inam granted for rendering service to the Deity, it is a service grant i.e., grant attached to the office and, therefore, the respondents 1 to 3 committed a grave error in concluding that the inam is not held by an institution.

It is also contended by the learned counsel that even assuming that the claim of the inamdars that it is a personal grant is correct, the same shall be deemed to be a religious endowment within the meaning of Section 2 (22) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Endowments Act, 1987') as explained in Explanation-II. The learned counsel vehemently contended that by virtue of Section 34 of the Endowments Act, 1987, the rights, if any, held by inamdars stood abolished and, therefore, the impugned orders are liable to be set aside on that ground also. In support of his submission, the learned counsel relied upon the decision of a Division Bench of this Court in **Sri Ramalingeswara Swamy Deity v. P. Purushotham (died) by LRs.**[1] which was rendered following the decision of the Supreme Court in **A.S. Narayana Deekshitulu v. State of Andhra Pradesh & Others**[2].

In **Sri Ramalingeswara Swamy Deity's case** (1 supra), the Division Bench was dealing with the appeals, which arose out of the Judgment and Decree of the trial Court dismissing a suit for ejection filed by Sri Ramalingeswara Swamy Deity of Kopalle. One of the contentions raised before the Division Bench by the appellants therein was that the defendant had lost the interest in the property by virtue of the provisions of the Endowments Act, 1987. It was contended that after coming into force of the Endowments Act, 1987, the Deity has become the owner and, therefore, by operation of law the Deity is entitled to the suit property.

It is to be noted that the land, which is the subject matter of the above decision, admittedly related to *archakatvam* service. Hence, it was contended by the appellants therein that since the office of archakatvam stood abolished under Section 34 of the Endowments Act, 1987, the respondents have no right to continue in the land in question by operation of law. The Division Bench while extensively referring to the ratio laid down by the Supreme Court in **A.S. Narayana Deekshitulu's case** (2 supra), accepted the contention of the appellants therein and held that in view of the operation of law the respondents had no right to hold over the land and, accordingly, allowed the appeal and decreed the suit.

From the facts in the above decision it is clear that the respondents therein held the land *in lieu* of archakatvam service, to which they had succeeded by hereditary. Hence, while following the decision of the Supreme Court in **A.S. Narayana Deekshitulu v. State of Andhra Pradesh & Others** (2 Supra), wherein the abolition of the hereditary rights to appointments under Section 34 was held to be not violative of either Article 25(1) or 26(b) of the Constitution of India, the appeal was allowed by the Division Bench granting a decree for ejection in favour of the temple.

In the case on hand, the facts are entirely different. On appreciation of the evidence produced by the parties, a concurrent finding was recorded by the respondents 1 to 3 that the land in question, which is an inam land, was not held by the institution/writ petitioner. It was also found that the lands in question were personal grants burdened with service.

Hence, Section 34 of the Endowments Act, 1987, under which the right to office held by the archakas and other service holders stood abolished by operation of law, is not relevant and cannot be relied upon for the purpose of the contentions raised in the present case.

It is also relevant to note that the determination under Section 3 of the Act is only with regard to the nature of the inam and the same

would not confer any right either on institution or individual. The inam ceases to have effect from the date of grant of ryotwari patta under Section 7 of the Act, and only on conferment of such ryotwari patta, a vested right to the property would be created in favour of the institution or individual with absolute right, title and interest. Therefore, the petitioner at this stage cannot be permitted to contend that the rights of the 4th respondent in respect of the land in question stood abolished. It is rather premature to go into the said question.

Then, coming to the merits of the case, it needs no reiteration that this Court while exercising the jurisdiction under Article 226 of the Constitution of India does not act as an appellate authority and re-appreciate the evidence on record.

The law is well-settled that the scope of judicial review, particularly a writ of certiorari, is limited and would be exercised only to correct errors of jurisdiction or to correct errors of law apparent on the face of the record. This Court would interfere by issuing a writ of *certiorari* only where it is found that the order was passed by the Court or Tribunal in violation of principles of natural justice or where the findings are not based on any evidence.

The material on record shows that both the parties were afforded ample opportunity to put forth their version and they were heard at every stage of the proceedings. It is not a case where the findings recorded by the 3rd respondent, as confirmed by the respondents 1 and 2, are not based on any evidence, much less can it be said that the respondents lack jurisdiction.

In the circumstances, I do not find any justifiable reason to interfere with the orders passed by the respondents 1 to 3 by issuing a Writ of Certiorari.

However, it is made clear that this Court shall not be understood to have expressed any opinion with regard to the contentions raised by the petitioner as to the effect of the provisions of the Endowments Act, 1987, which require a detailed enquiry into the nature of the grant. The

said questions are left open to be agitated by the petitioner by working out the appropriate remedy as available under law before the appropriate forum.

Accordingly, granting leave and liberty, the Writ Petition is dismissed. No costs.

26th October, 2006. **(G. ROHINI, J.**

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.20938 OF 1995

26th October, 2006.

Between:

Sri Kodandaramasway Vari Temple,
Buchireddipalem, Nellore district,
Represented by its Heriditary Managing
Trustee – Sri D. Panduranga Reddy. .. Petitioner.

And

The Commissioner of Survey,
Settlements & Land Records, Government
of Andhra Pradesh, Hyderabad and others. .. Respondents.

***THE HON'BLE Ms. JUSTICE G. ROHINI**

+WRIT PETITION NO.20938 OF 1995

Dated 26-10-2006

Sri Kodandaramaswamy Vari
Temple, Buchireddipalem, Nellore District,
represented by its Heriditary Managing Trustee,
Sri D. Panduranga Reddy.. .. Petitioner.

AND

The Commissioner of Survey, Setlement &

Land Records, Government of A.P.,

Hyderabad and others. .. Respondents.

! Counsel for Petitioner: Sri K. V. Satayanarayana.

^Counsel for Respondents: Sri P. Sri Raghuram (for R4)
G.P. For Endowments

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Cases referred
1.2004 (6) ALD 263;
2. AIR 1996 SC 1765.

[1] 2004 (6) ALD 263;

[2] AIR 1996 SC 1765.